

IC 5-22-14

Chapter 14. Small Business Set-Aside Purchases

IC 5-22-14-1

"Small business" defined

Sec. 1. As used in this chapter, "small business" means a business that:

- (1) is independently owned and operated;
- (2) is not dominant in its field of operation; and
- (3) satisfies the criteria in the rules adopted under section 3 of this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-2

"Small business set-aside" defined

Sec. 2. As used in this chapter, "small business set-aside" means a purchase in which the solicitation states that offers will be accepted only by small businesses.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-3

Rules

Sec. 3. (a) A governmental body may adopt rules to implement this chapter. The Indiana department of administration shall adopt rules under IC 4-22-2 to implement this chapter.

(b) The rules adopted by a governmental body must establish criteria for determining qualifications as a small business. In establishing criteria, the rules may use any standards established for determination of small business status that are used by an agency of the federal government. A governmental body may also receive assistance from the Indiana department of commerce to establish criteria or to implement the rules.

(c) The rules adopted by a governmental body may consider the number of employees employed by an offeror and the dollar volume of the offeror's business. The rules must provide that when computing the size of an offeror, the annual sales and receipts of the offeror and all of its affiliates must be included.

(d) The rules adopted by a governmental body must include the following criteria:

- (1) A wholesale business is not a small business if its annual sales for its most recently completed fiscal year exceed four million dollars (\$4,000,000).
- (2) A construction business is not a small business if its average annual receipts for the preceding three (3) fiscal years exceed four million dollars (\$4,000,000).
- (3) A retail business or business selling services is not a small business if its annual sales and receipts exceed five hundred thousand dollars (\$500,000).
- (4) A manufacturing business is not a small business if it employs more than one hundred (100) persons.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-4

Identification of supplies; designation as small business; notice

Sec. 4. (a) A governmental body that has adopted rules under this chapter may identify as a small business set-aside specific supplies for which purchase has been requested under this article.

(b) A small business designation must be made before the solicitation for the purchase is issued and the public notice of the purchase must state that the purchase is a small business set-aside.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-5

Reasonable expectation of two offers

Sec. 5. A governmental body may not designate a purchase as a small business set-aside unless there is a reasonable expectation that offers will be obtained from at least two (2) small businesses capable of furnishing the desired supplies or service at a fair and reasonable price.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-6

Solicitation confined to small businesses

Sec. 6. If a purchase is designated as a small business set-aside, the solicitation must be confined to small businesses.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-7

Award of contract

Sec. 7. A contract shall be awarded to the lowest responsible and responsive offeror among the small businesses in accordance with the rules of the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-8

Acceptance of offer resulting in unreasonable price

Sec. 8. If the purchasing agent determines that acceptance of the lowest responsible and responsive offer will result in the payment of an unreasonable price, the purchasing agent shall reject all offers and may withdraw designation of the purchase as a small business set-aside.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-9

Assistance from department of commerce

Sec. 9. The department of commerce may assist a governmental body in doing any of the following:

- (1) Compiling and maintaining a comprehensive list of small businesses.
- (2) Assisting small businesses in complying with the procedures

for bidding on governmental contracts.

(3) Examining requests from governmental bodies for the purchase of supplies to help determine which purchases are to be designated small business set-asides.

(4) Simplifying specifications and contract terms to increase the opportunities for small business participation in governmental contracts.

(5) Investigations by a governmental body to determine the responsibility of offerors on small business set-asides.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-10

Purchases subject to other provisions and rules; conflict of laws

Sec. 10. A purchase from a small business under this chapter is subject to:

(1) all other provisions of this article; and

(2) the rules of the governmental body.

If there is a conflict between the laws described in subdivisions (1) and (2) and this chapter, this chapter governs.

As added by P.L.49-1997, SEC.1.